

MONTANA BANK, TRUSTEE

IBLA 81-31

Decided May 18, 1981

Appeal from decision of Montana State Office, Bureau of Land Management, denying request for approval of assignment of oil and gas lease M 34139.

Affirmed.

1. Oil and Gas Leases: Assignments or Transfers

A request for approval of assignment of record title to an oil and gas lease is properly denied in the absence of evidence of the qualifications of the assignee trust to hold Federal oil and gas leases.

APPEARANCES: L. D. LeMaster, Vice President and Trust Officer.

OPINION BY ACTING ADMINISTRATIVE JUDGE GRANT

On August 1, 1978, Sally C. Hummel assigned her interest in oil and gas lease M 34139 to Montana Bank as trustee. The assignee of record title interest in the lease is designated in the assignment form filed with the Bureau of Land Management (BLM), as "Montana Bank as trustee for First National Bank of Nevada, Trustee fbo Errett Allan Hummel, per Trust dtd December 26, 1976 from Peter W. Hummel, Trustor and First National Bank of Nevada, Trustee." The request for approval of this assignment was filed with BLM on December 7, 1979. The assignment was accompanied by evidence of the corporate qualifications of Montana Bank and the holding company owning 89.9 percent of the stock of Montana Bank.

Also filed with BLM was a copy of an agreement between the First National Bank of Nevada, as trustor, and Montana Bank, as trustee, granting the trustee legal title to certain assets held by the trustor

as trustee under a trust agreement dated December 28, 1976, between Peter W. Hummel, settlor of the trust and First National Bank of Nevada, trustee thereunder. Apparently creation of the secondary trust was necessitated by lack of authority of the First National Bank of Nevada, trustee under the trust created by Peter W. Hummel, to hold title to assets outside the State of Nevada.

This appeal is brought by the assignee, Montana Bank, from a decision of BLM dated September 12, 1980, denying the request for approval of the assignment. BLM's denial of the request was grounded in part on the fact that "the assignment form used does not meet the requirements of the regulations." The decision specifically noted the absence from the form of the limitation on overriding royalties required by the regulation at 43 CFR 3103.3-6. The decision further recited that "[t]he information submitted with the assignment is not acceptable evidence to qualify the trust to hold a Federal oil and gas lease."

Appellant does not disagree that the form it tendered does not comply with regulations. Rather, appellant complains of BLM's failure to provide the proper forms, and of the lack of specific guidance to be found in the decision denying appellant's request. A copy of the initial trust agreement of December 28, 1976, between Peter W. Hummel, trustor, and the First National Bank of Nevada, trustee, has been provided with the statement of reasons for appeal.

[1] An oil and gas lease may be assigned "subject to final approval by the Secretary." 30 U.S.C. § 187a (1976). The filing of a proposed assignment in conformity with the applicable law and regulations ordinarily requires approval by the Department except for lack of qualifications of the assignee or lack of sufficient bond. 30 U.S.C. § 187a (1976); see Duncan Miller, 12 IBLA 201, 203 (1973). 1/ The decision must be affirmed because review of the case file fails to disclose evidence of the qualifications of the trust to hold oil and gas leases. Although appellant has filed evidence of its corporate qualifications to hold oil and gas leases, additional evidence is required where the assignee is acting as a trustee. The regulations require provision of a certified copy of the trust document authorizing the trustee to fulfill all lease obligations, as well as statements as to the age, citizenship, and compliance with the acreage limitations

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1/ The regulation at 43 CFR 3106.2-2(a) has been revised effective May 6, 1980, to require that assignments of record title interest be filed on official BLM forms which have been prenumbered and designated by BLM for use in assigning record title to a specific lease. 45 FR 30057 (May 6, 1980). This form may be obtained from the BLM office having jurisdiction over the lease to be assigned.

by the trustee and by each beneficiary. 43 CFR 3102.2-3, 45 FR 35162 (May 23, 1980). 2/ Appellant did not provide a copy of the trust agreement created by Peter W. Hummel prior to the filing of this appeal and there is no evidence regarding the qualifications of the beneficiaries under the trust. Accordingly, the decision below must be sustained without prejudice to appellant's right to refile the assignment on the proper form (see n.1, supra) obtained from BLM together with the required evidence of qualifications.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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C. Randall Grant, Jr.  
Acting Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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James L. Burski  
Administrative Judge

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2/ The prior regulation in effect at the time the assignment was filed also required a copy of the trust instrument and statements as to the citizenship and holdings under the leasing act of the beneficiaries and the trustee. 43 CFR 3102.5-1 (1979).

